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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 ARASHEIK WILLIAMS, ) No. C 07-5083 RMW (PR)  
12 )  
13 Petitioner, ) ORDER OF DISMISSAL  
14 )  
15 vs. )  
16 WARDEN MENDOZA-POWERS, )  
Respondent. )  
\_\_\_\_\_ )

18 Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of  
19 habeas corpus pursuant to 28 U.S.C. § 2254 challenging his 2002 criminal conviction in  
20 the Santa Clara Superior Court. Petitioner has paid the filing fee. Petitioner filed a  
21 previous habeas action with this court, in case no. C 04-4552 RMW (PR), challenging the  
22 same conviction and sentence raised in the instant petition. In this earlier habeas action,  
23 the court denied the petition on the merits on February 22, 2007. The court will  
24 DISMISS the instant petition without prejudice as a second or successive petition  
25 pursuant to 28 U.S.C. § 2244(b).

26 **DISCUSSION**

27 A district court must dismiss claims presented in a second or successive habeas  
28 petition challenging the same conviction and sentence unless the claims presented in the

1 previous petition were denied for failure to exhaust. See 28 U.S.C. § 2244(b)(1);  
2 Babbitt v. Woodford, 177 F.3d 744, 745-46 (9th Cir. 1999). Additionally, a district court  
3 must dismiss any new claims raised in a successive petition unless the petitioner received an  
4 order from the court of appeals authorizing the district court to consider the petition.


5 Here, the instant petition challenges the same conviction and sentence as petitioner's  
6 earlier habeas action, which was denied on the merits. Petitioner has not presented an order  
7 from the Ninth Circuit Court of Appeals authorizing this court to consider any new claims.  
8 Accordingly, this court must dismiss the instant petition in its entirety. See 28 U.S.C. §  
9 2244(b)(3)(A).

### 10 CONCLUSION

11 The instant habeas petition is DISMISSED without prejudice as a second and  
12 successive petition. The clerk shall terminate any pending motions and close the file.

13 IT IS SO ORDERED.

14 DATED: 1/29/08\_\_\_\_\_

  
\_\_\_\_\_  
RONALD M. WHYTE  
United States District Judge

1 This is to certify that on 2/12/08, a copy of this ruling  
2 was mailed to the following:

3 Arasheik Williams  
4 J-95411  
5 Avenal State Prison  
6 110-2-03L  
7 P.O. Box 9  
8 Avenal, CA 93204  
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